

REMARKS

This Amendment is submitted in response to the Final Office Action dated August 4, 2010, having a shortened statutory period set to expire November 4, 2010. Applicant has amended claims 1, 11 and 127 without prejudice or disclaimer to the subject matter recited therein. Claims 63-69 have been canceled. Reconsideration of the present case is earnestly requested in light of the following remarks.

Double Patenting Rejection

Applicant acknowledges that Claims 1-2, 4-20, 25-32, 44-46, 63-69, 84-91, 127-138, 176-177 and 188 have been provisionally rejected in the ground of non-statutory obviousness-type double patenting. Applicant will file a terminal disclaimer to overcome and actual obviousness-type double patenting rejection if one or more claims in the present application are indicated as allowable and the obviousness-type double patenting rejection is maintained.

Restrictions by Original Presentation

Page 18 of the present Office Action indicates that Claims 11-20 and 127-138 are directed to an invention that is independent or distinct from the originally claimed invention. In arguing the claims should be restricted, the Examiner states on page 19 “originally presented Claims 1-2, 4-10, 44, 188, 25-32, 45-46, 63-69, 84-91, 176-177 are drawn to a method/system for providing content to a device based on location of the access point in communication with the device through the access point; wherein the geographic location of the access point is determined by accessing a MIB, not by a user device.” On page 18 of the present Office Action it is stated that “Claims 11-20, 127-138 are drawn to a method for providing content to a device based on location of the access point, comprising receiving, via a first access point of the one or more access points, a geographic location of the first access point from a computing device operated by a user and communicatively coupled to the first access point from a computing device operated by a user is not originally presented and/or distinct and not obvious over the original claim presentation, wherein geographic location of an access point is determined by a MIB (management information base) associated with the access point and not determined by or sent from a user device (see e.g. original claims 7, 8...).” Applicant has amended Claims 11 and 127 to recite “*receive, via a first access point of the one or more access points, a geographic location*

of the first access point.” Applicants respectfully submit that the Claims 11-20, 127-138 are now directed to the same subject matter as Claim 1 et al. and that that restriction should be withdrawn.

Claim Rejections Under 35 U.S.C. § 103

Claims 1-2, 4-6, 9-10, 44, 188, 25-30, 32, 45-46, 63-69, 84-91 and 176-177 are rejected under 35 USC §103(a) as being unpatentable over *Singer et al.* (US 5,485,163) in view of *Muffat et al.* (European Cooperation on Dual Mode Route Guidance-Perspectives for Advanced Research Partners). Claims 7, 8 and 31 are rejected under 35 USC §103(a) as being unpatentable over *Singer* in view of *Muffat* and further in view of *Labedz* (US 5,608,854). Those rejections are respectfully traversed and reconsideration of the claims is requested.

With respect to Claim 1 in the present application, therein is recited, *inter alia*:

“transmitting, via the network and access point, content to the computing device, wherein the content comprises a message to the user from a business promoting goods or services of the business relating to the geographic location of the computing device and wherein the message is selected based on the identification information and the third party information, wherein the business is not the service provider or the user.”

Singer fails to anticipate or render obvious at least this element of independent Claim 1. Further, *Muffat*, taken individually or in combination, also fails to anticipate or render obvious this element of Claim 1. It is argued on page 9 of the present Office Action that *Muffat* on pages 930 and 934 discloses this element. The descriptions of *Muffat* at pages 930-934 describes the provision of information services to vehicles in-transit through an on-board route guidance system for a vehicle, (e.g. a motor vehicle), and that presents various route guidance, information services, parking services and emergency information to the user. As shown in Figure 3, the “Socrates display” presents a “services” button that will generate a graphic user interface showing “information about” various services including “gas station,” “garage,” “motel,” and various medical services that are in the vehicle’s current location.

Applicant respectfully submits that an information provider providing “information” about various services in a geographic area is not a seller of goods and services presenting a “message” to a user from the business “promoting goods or services of the business,” as recited in Claim 1. There is nothing within *Muffat* that suggests any messages are presented to the user from a business that is not the information service provider or in fact that any third party information is displayed at all. In fact, *Muffat* only describes an information service bureau that provides all of

the information of the in-vehicle navigation system. There is nothing within *Muffat* that suggests any third party whatsoever is presenting a message to the driver of the vehicle through the navigation system, nor does *Muffat* suggest such messages could be communicated through this system. *Muffat* fails to show or suggest that the “business [promoting its goods and services] is not the service provider or the user.” For at least these reasons, *Muffat* fails to anticipate or render obvious ““transmitting, via the network and access point, content to the computing device, wherein the content comprises a message to the user from a business promoting goods or services of the business relating to the geographic location of the computing device,” as recited in independent Claim1 in the present application.

Still further, Claim 1 recites that “the message is selected based on the identification information and the third party information.” *Muffat* fails to show or suggest that any of the in-vehicle navigation system information, or in particular any of the “information services” offered to the driver of the system, is in any way “selected based on the identification information” of the user of the vehicle. All of the information services suggested in Figure 3 of *Muffat* are completely independent of user identification. Instead, the services are generic offerings that are selected for presentation based on general predictions of a vehicle’s drivers interest. In no way are they customized for a particular user. For at least these reasons, *Muffat* fails to anticipate or render obvious “wherein the message is selected based on the identification information and the third party information,” as recited in independent Claim1 in the present application. For at least the reasons given above, Applicant respectfully submits that *Singer* in view of *Muffat* clearly fails to anticipate or render obvious independent Claim 1 in the present application and respectfully requests reconsideration of the rejection under §103.

In conclusion, Applicants respectfully submit that neither *Singer et al.* nor *Muffat et al.*, nor *Labedz*, nor any other prior art of record, taken individually or in combination, anticipates or renders obvious exemplary independent Claim 1 and the claims dependent thereon in the present application, and that therefore the rejection of those claims under §103 should be withdrawn. For the same reasons as given above with respect to independent Claim 1, Applicants submit that independent Claims 11, 25, 30, 84 and 127, and the claims dependent thereon, are similarly not anticipated or rendered obvious by *Singer et al.*, *Muffat et al.*, or *Labedz*, or any other prior art of record, taken individually or in combination, and that the rejections of those claims under §103 should also be withdrawn.

Having now responded to each rejection set forth in the present Office Action, Applicant believes all pending claims are now in condition for allowance and respectfully request such allowance. Applicant invites the Examiner to contact the undersigned at the below listed telephone number if a telephone conference would expedite prosecution of this application.

Respectfully submitted,

/Craig J. Yudell/

Craig J. Yudell
Reg. No. 39,083
DILLON & YUDELL LLP
8911 N. Capital of Texas Highway
Suite 2110
Austin, Texas 78759
512.343.6116

ATTORNEY FOR APPLICANT